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case, therefore, seems correct in admitting the testimony, and a recent Kentucky case to the same effect now makes it in accord with the weight of authority. *North River Ins. Co. v. Walker*, 170 S. W. 983 (Ky.).

EXTRADITION — INTERSTATE EXTRADITION UNDER THE UNITED STATES CONSTITUTION — *HABEAS CORPUS* PROCEEDINGS RAISING THE DEFENSE OF INSANITY. — A prisoner who had been acquitted of homicide in New York upon the ground of insanity escaped from an asylum to which he had been committed under statutory authority and fled to New Hampshire. He was there arrested for extradition to New York in compliance with a demand based upon an indictment for conspiracy to pervert and obstruct the due administration of the laws of New York. The fugitive sued out a writ of *habeas corpus* in the federal court to test the legality of his arrest. *Held*, that he should not be released. *Drew v. Thaw*, 235 U. S. 432.

A person accused of crime in another state may lawfully be arrested for extradition if, as was plainly the case here, he is a fugitive from the demanding state, and if the demand for his return is accompanied by a duly certified indictment or affidavit, which substantially charges him with the commission of a crime. U. S. CONST., Art. 4, § 2; U. S. REV. STAT., § 5278. And see *Roberts v. Reilly*, 116 U. S. 80, 95, 97. Whether a crime is charged is a question of the law of the demanding state, which is open to inquiry upon *habeas corpus* proceedings. *In re Renshaw*, 18 S. D. 32, 99 N. W. 83. See *Pierce v. Creecy*, 210 U. S. 387. And *cf. Kentucky v. Dennison*, 24 How. (U. S.) 66, 103. But the technical sufficiency of the indictment as a criminal pleading is immaterial. *Ex parte Reggel*, 114 U. S. 642; *Davis's Case*, 122 Mass. 324. Furthermore, the guilt or innocence of the prisoner is not in issue, and any defenses he might offer at his trial are to be disregarded, unless they negative a *prima facie* charge of crime. *Pierce v. Creecy*, *supra*; *Ex parte Hart*, 59 Fed. 894; *Commonwealth v. Supt. of Prison*, 220 Pa. St. 401, 69 Atl. 916; and see cases collected in 21 L. R. A. N. S. 939. Under the laws of New York, a conspiracy to escape from confinement in an asylum under the circumstances of the principal case is plainly criminal. CODE OF CRIM. PROC., § 454; CONSOL. LAWS, N. Y. PENAL LAW, § 580, subd. 6. Hence, the indictment substantially charged a crime, and the court properly refused to consider the possible defense of insanity. It is gratifying that the curiously misconceived opinion of the law advanced by the District Court is thus authoritatively corrected. See *Ex parte Thaw*, 214 Fed. 423.

GIFTS — GIFTS *MORTIS CAUSA* — DELIVERY BY DONOR WHO HAS HOPE OF RECOVERY. — The donor had tuberculosis, and upon leaving for a sanitarium where he hoped to be cured, gave his savings bank book to his physician to give to the donor's sister in case the donor should die. As a matter of fact the donor had practically no chance of recovery, and eleven months later died. The sister now seeks to recover the deposit from the bank. *Held*, that the plaintiff cannot recover, on the ground that the gift was not made in apprehension of death. *Danzinger v. Seamen's Bank for Savings*, 86 N. Y. Misc. 316, 149 N. Y. Supp. 207.

The handing over of a savings bank book is a sufficient delivery for a gift *mortis causa*. *Tillinghast v. Wheaton*, 8 R. I. 536. However, it is essential to such a gift that it should be made under a definite apprehension of death, caused by some existing disease or peril. *Taylor v. Harmison*, 79 Ill. App. 380; *Gourley v. Linsinbigler*, 51 Pa. 345. But it is not necessary that the donor should have given up all hope of life, or that he should die within any fixed time after the making of the gift. *Grymes v. Hone*, 49 N. Y. 17; *Williams v. Guile*, 117 N. Y. 343; *Nicholas v. Adams*, 2 Whart. (Pa.) 17. In

fact, a gift *mortis causa* has been held valid although the donor died of another disease than the one he feared. *Ridden v. Thrall*, 125 N. Y. 572, 26 N. E. 627. It would seem therefore that the gift should have been sustained in the principal case. Consumptives are proverbially optimistic, and the fact that a man takes steps to cure a serious disease does not mean he has no realization of his danger.

**HABEAS CORPUS** — JURISDICTION TO ISSUE WRIT AFTER COMMITMENT BY ANOTHER FEDERAL COURT UNDER FEDERAL STATUTE ALLEGED TO BE UNCONSTITUTIONAL. — A witness called by a committee of the House of Representatives, authorized to investigate financial conditions as a preliminary to legislation and to examine witnesses for that purpose, refused to answer certain questions put to him by the committee. He was thereupon indicted in the District of Columbia for contempt under U. S. REV. STAT., §§ 101-104, arrested in New York, and held for removal. He then applied for a writ of *habeas corpus* on the ground that Congress had no power under the Constitution to compel a citizen to give such testimony. *Held*, that the writ be discharged. *Henry v. Henkel*, 235 U. S. 219.

*Habeas corpus* proceedings present the issue whether the prisoner is unlawfully restrained of his liberty. U. S. REV. STAT., § 752. But the general rule is that on such applications, the federal courts will not determine controverted questions of law or fact, but will leave the prisoner to prove his right to liberty in the trial court, and if unsuccessful there, to prosecute his claim by writ of error. See *Ex parte Royall*, 117 U. S. 241, 251. In certain exceptional cases, as where the issuance of the writ is necessary to protect the federal government in the execution of its functions, the court will inquire fully into the questions of law and fact involved, and make a summary order. *In re Neagle*, 135 U. S. 1. And in any case, an immediate writ would issue if it appeared that there was no provision of the common law or of any statute making the act charged an offense. See *Greene v. Henkel*, 183 U. S. 249, 261. But where, as in the principal case, an indictment makes a *prima facie* case, the court will confine itself to a determination of the other tribunal's authority over such a case as this appears to be on its face, and will not inquire into the constitutionality of the statute supporting the indictment, or the sufficiency of the charge. *Matter of Gregory*, 219 U. S. 210. The application of this general rule to the principal case made it unnecessary for the court to pass upon the interesting and long-mooted question of the power of Congress to compel witnesses to give testimony to be used as a basis for legislation.

**INTERSTATE COMMERCE** — CONTROL BY STATES — RIGHT OF FOREIGN CORPORATION TO ENFORCE IN STATE COURTS CONTRACTS ARISING IN INTERSTATE COMMERCE. — A foreign corporation sued in a state court to recover the price of goods shipped to a resident of the state in compliance with an order given to its traveling salesman. A state statute which denied the right to sue in the state courts to any foreign corporation which had not appointed a resident agent and filed certain reports, was construed by the state court to apply to this transaction. *Held*, that, so construed, the statute is an unconstitutional restraint upon interstate commerce. *Sioux Remedy Co. v. Cope*, 235 U. S. 197.

A statute of the same general nature being in force, a foreign corporation sued to collect a debt which arose from a similar sale. *Held*, that the statute does not apply to suits arising from interstate commerce. *American Art Works v. Chicago Picture Frame Works*, 264 Ill. 610, 106 N. E. 440.

The first case settles a previous conflict of authority by applying to these statutes the principle that a state may not, in exercising its right to impose conditions upon the admission of foreign corporations, thereby hamper inter-